

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS**

PATRICK C. LALLY and
JADE C. LALLY,

Plaintiffs,

v.

WELLS FARGO BANK, N.A., d/b/a
WELLS FARGO HOME MORTGAGE.

Defendants.

Civil Action No. 10-40214

WELLS FARGO'S MOTION TO DISMISS

Defendant, Wells Fargo Bank, N.A ("Wells Fargo"), incorrectly identified in the caption, hereby moves under Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss Plaintiffs' Amended Complaint for failure to state a claim upon which relief may be granted. As grounds therefore, Wells Fargo refers to its accompanying memorandum of law.

WHEREFORE, Wells Fargo requests that this Court dismiss Plaintiffs' Amended Complaint in its entirety, or to grant such other or additional relief as this Court deems just and appropriate.

Respectfully submitted,
Wells Fargo Bank, N.A.,
By its Attorneys,

/s/ Jeffrey S. Patterson
Jeffrey S. Patterson (BBO #671383)
jeffrey.patterson@nelsonmullins.com
David E. Fialkow (BBO #666192)
david.fialkow@nelsonmullins.com
Nelson Mullins Riley & Scarborough LLP
One Boston Place, 40th Floor
Boston, Massachusetts 02108
(617) 573-4700
(617) 573-4710 (fax)

Dated: October 28, 2010

CERTIFICATE OF SERVICE

I, Jeffrey S. Patterson, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

Dated: October 28, 2010

/s/ Jeffrey S. Patterson